

**MINUTES OF THE COURT OF APPEAL
STATE OF CALIFORNIA
SECOND APPELLATE DISTRICT**

October 23, 1997

DIVISION ONE

B101217 Elliott et al. (Not for Publication)
v.
Franchise Tax Board

The judgment is affirmed.

Vogel (Miriam A.), J.

We concur: Ortega, Acting P.J.
Dunn, J. (Assigned)

B106074 People (Not for Publication)
v.
Prince

The judgment is affirmed.

Vogel (Miriam A.), J.

We concur: Ortega, Acting P.J.
Masterson, J.

B111926 Jackson et al. (Not for Publication)
v.
Johnson

The judgment is affirmed. James Williams and Walter Jackson are awarded their costs of appeal.

Vogel (Miriam A.), J.

We concur: Ortega, Acting P.J.
Dunn, J. (Assigned)

October 23, 1997-Continued

DIVISION ONE (Continued)

B091291 Sehmeyer (Not for Publication)
v.
Callahan, McCune & Willis et al.

The summary judgments are affirmed. The orders of dismissal are affirmed. The order awarding sanctions is affirmed. All motions for sanctions for a frivolous appeal are denied. All appearing defendants are awarded their costs of appeal.

Vogel (Miriam A.), J.

We concur: Ortega, Acting P.J.
Masterson, J.

B102703 McGraw (Not for Publication)
v.
Farinella

The orders dismissing McGraw's case and denying his motion to vacate the dismissal are reversed, and the cause is remanded to the trial court with directions to place the case back on track for an arbitration hearing. McGraw is to pay his own costs of appeal.

Vogel (Miriam A.), J.

We concur: Spencer, P.J.
Masterson, J.

B101299 Simpson (Not for Publication)
B102042 v.
B102716 Young

The judgment and orders denying relief from the judgment are affirmed.

Vogel (Miriam A.), J.

We concur: Spencer, P.J.
Dunn, J. (Assigned)

DIVISION ONE (Continued)

B103785 Carraway (Not for Publication)

v.

Los Angeles Community College District

The judgment is affirmed. The District is awarded its costs of appeal.

Vogel (Miriam A.), J.

We concur: Spencer, P.J.
 Ortega, J.

B097387 Fouce Amusement Enterprises Inc. (Not for Publication)

v.

Metropolitan Property Associates et al.

The judgment and the order awarding fees and costs are affirmed. Metropolitan is awarded its costs of appeal, including attorneys' fees incurred on appeal, and the cause is remanded to the trial court for a determination of the amount of such fees.

Vogel (Miriam A.), J.

We concur: Spencer, P.J.
 Ortega, J.

B100859 Thomas (Not for Publication)

v.

Northrop Grumman Corp.

The judgment is affirmed. Northrop is awarded its costs of appeal.

Vogel (Miriam A.), J.

We concur: Spencer, P.J.
 Dunn, J. (Assigned)

DIVISION TWO

Court convened at 9:15 A.M.

Present: Boren, P.J., Fukuto, J., Nott, J., Zebrowski, J., Ito, J. (Assigned), and G. Villanueva, Deputy Clerk.

B106669 People
 v.
 Magana

Merits:
Argued by Daniel Koryn for appellant and by Michael Wise, Deputy Attorney General for appellant. Cause submitted.

B109245 People
 v.
 Avila

Merits:
Argued by Daniel Koryn for appellant and by David Eldridge, Deputy Attorney General for respondent. Cause submitted.

B101997 Kelly
 v.
 Valley Presbyterian Hospital

Merits:
Argued by Tamila Jensen for appellant and by Randel Ledesma for respondent. Cause submitted.

B099550 Keavey
 v.
 City of Glendale

Merits:
Argued by Howard Hirsch for appellant and by Carole Glovsky, Deputy City Attorney for respondent. Cause submitted.

DIVISION TWO (Continued)

B104511 Lowe
 v.
 City of Commerce

Merits:
Argued by Josef Kopicka for appellant and by Raul Salinas for respondent.
Cause submitted.

B096548 Binkley
 v.
 City of Long Beach, et al.

Merits:
Argued by Frank O'Kane for appellant and by Richard Terzian, George
Shaeffer and Timothy O'Reilly for respondents. Cause submitted.

B102756 Rigney
 v.
 National Association of Life & Health Insurance

Merits:
Argued by Aaron Robinson for appellant and by W. Carlisle Herbert for
respondent. Motion of attorney Aaron Robins to appear pro hac vice is
granted in open court. Cause submitted.

B094666 Reilly
 v.
 American Medical International

Merits:
Argued by James Webster for appellant and by Douglas Thorpe for
respondent. Cause submitted.

Mr. Justice Fukuto leaves the bench.

DIVISION TWO (Continued)

B105840 First Fidelity
 v.
 Alliance Bank

Merits:
Argued by David Smith for appellant and by Robert McKay for respondent.
Cause submitted.

Mr. Justice Zebrowski leaves the bench.

B109713 Keegan
 v.
 Pepperdine University, et al.

Merits:
Argued by Neville Johnson for appellant and by Robert Philips for
respondent and by Steven Greenfeld for respondent. Cause submitted.

Court Recessed.

The Court reconvened at 1:00 P.M.

Present: Boren, P.J., Fukuto, J., Nott, J., Zebrowski, J., Ito, J. (Assigned), and G.
Villanueva, Deputy Clerk.

B107664 People
 v.
 Mario S.

Merits:
Argued by David Saine for appellant and by Corey Robins, Deputy
Attorney General for respondent. Cause submitted.

DIVISION TWO (Continued)

B115040 Lewis
 v.
 Superior Court, L.A. County
 (The People, r.p.i.)

Merits:

Argued by Albert Menaster, Deputy County Public Defender for petitioner and by Brentford Ferreira, Deputy District Attorney for real party in interest. Cause submitted.

B105856 People
 v.
 Williams

Merits:

Argued by Marilyn Burkhardt for appellant and by Joseph Lee, Deputy Attorney General for respondent. Cause submitted.

B104792 LA Department of Public Social Services
 v.
 Civil Service Commission

Merits:

Argued by Monica Mauricette, Deputy County Counsel for appellant and by Herman Santos for real party in interest. Cause submitted.

B108867 L.A. County D.C.F.S.
 v.
 Patricia L.

Merits:

Argued by Kim Kedeshian, Deputy County Counsel for appellant and by Honey Amado for respondent. Cause submitted.

DIVISION TWO (Continued)

B114717 McKinnon

v.

Superior Court, L.A. County
(Parsons Process, r.p.i.)

Merits:

Argued by Brian Unitt for petitioner and by William Henley for real party
in interest. Cause submitted.

B106483 Roven

v.

Citadel Holding, et al.

Merits:

Argued by Brian O'Dea for appellant and by David Ozeran for respondent
and by Allan Schare for respondent. Cause submitted.

B092051 Musselman

v.

Re/Max, et al.

Merits:

Argued by Michael Perry for appellant and by Alexandra Ward for
appellant and by Michael White for respondent. Cause submitted.

Mr. Presiding Justice Boren leaves the bench.

B100175 Melchers Limited

v.

Globus

Merits:

Argued by Edward Slizewski for appellant and by Barry West for
respondent. Cause submitted.

DIVISION TWO (Continued)

B106662 Cooke
v.
Zimmer, et al.

Merits:

Argued by Robert Infelise for appellant and by Jeffrey Kent, Guy Lohead and Robert Brugge for respondents. Cause submitted.

Court Adjourned.

B114004 Soltz
v.
Superior Court, L.A. County
Astro Office Products, Inc.,

Filed order modifying opinion. (No change in the judgment.)

[illegible]

The Court:

The judgment is affirmed.

Fukuto, Acting P.J., Nott, J., Zebrowski, J.

DIVISION THREE

B106294 Timothy Bayley
v.
Regents of the University of California

Filed order modifying opinion. Petition for rehearing is denied. (No change in the judgment.)

DIVISION FOUR

B100815 People
 v.
 Craft

Filed order denying petition for rehearing.

B105944 People (Not for Publication)
 v.
 Sigur

The conviction is affirmed.

Epstein, J.

We concur: Vogel (C.S.), P.J.
 Baron, J.

B105893 People (Not for Publication)
 v.
 Segura

The Court:

The judgment is affirmed.

Vogel (C.S.), P.J., Hastings, J., Baron, J.

B103771 People (Not for Publication)
 v.
 Quinn

The Court:

The judgment is affirmed.

Vogel (C.S.), P.J., Epstein, J., Baron, J.

October 23, 1997-Continued

DIVISION FOUR (Continued)

[illegible]

The judgment is affirmed.

Vogel (C.S.), P.J.

We concur: Epstein, J.
Baron, J.

B104893 People (Not for Publication)
v.
Gutierrez

The trial court's finding that defendant's 1977 conviction for assault with a deadly weapon qualifies as a "strike" within the meaning of the Three Strikes law is stricken from the abstract of judgment. In all other respects, the judgment is affirmed.

Vogel (C.S.), P.J.

We concur: Hastings, J.
 Baron, J.

[illegible]

The judgment (order granting probation) is reversed.

Vogel (C.S.), P.J.

We concur: Epstein, J.
Baron, J.

DIVISION FOUR (Continued)

[illegible]

The judgment is affirmed. The superior court is directed to prepare an amended abstract of judgment to reflect 597 days as the total amount of custody credit.

Vogel (C.S.), P.J.

We concur: Epstein, J.
Baron, J.

B105118 People (Not for Publication)
v.
Pritchett et al.

In regard to Willie Pritchett, the matter is remanded to the trial court to give it the opportunity to reconsider his sentence pursuant to People v. Superior Court (Romero), supra 13 Cal.4th 497; in all other respects, that judgment is affirmed. The judgment imposed upon Greg Pritchett is affirmed.

Vogel (C.S.), P.J.

We concur: Epstein, J.
Hastings, J.

[illegible]

The judgment is affirmed.

Vogel (C.S.), P.J.

We concur: Epstein, J.
Baron, J.

October 23, 1997-Continued

DIVISION FOUR (Continued)

B097616 People (Not for Publication)
v.
Lucious

The judgment is modified to provide that the defendant is awarded credit for time spent in custody of 471 days, consisting of 315 days actual custody and 156 days conduct credit. As so modified, the judgment is affirmed.

Vogel (C.S.), P.J.

We concur: Epstein, J.
Hastings, J.

B113275 Bobbie B. (Not for Publication)
v.
Superior Court, Los Angeles County
(Los Angeles County Department of Children and Family Services, r.p.i.)

The petition for writ of mandate is denied. This decision shall become final as to this court immediately upon its filing. (Cal. Rules of Court, rule 24(d).)

Baron, J.

We concur: Epstein, Acting P.J.
Hastings, J.

B110236 Preach (Certified for Partial Publication)
v.
Monterainbow, Ltd., et al.
Virden

The order is reversed. Preach is to have his costs on appeal.

Epstein, Acting P.J.

We concur: Hastings, J.
Baron, J.

DIVISION FOUR (Continued)

B107816 Pacific Ventures Associates et al. (Not for Publication)

v.

Boyer et al.

The judgment is affirmed. Defendants' cross-appeal is dismissed as moot.
Defendants to recover costs of appeal.

Vogel (C.S.), P.J.

We concur: Epstein, J.
 Baron, J.

B099446 Centennial Funding Corporation (Not for Publication)

v.

Pendleton et al.

The judgment, including the award of costs and attorney fees, is reversed.
Costs on appeal are awarded to appellant.

Vogel (C.S.), P.J.

We concur: Epstein, J.
 Baron, J.

B110874 Weitman et al. (Not for Publication)

v.

Sunwest Bank

The order of the trial court is affirmed.

Vogel (C.S.), P.J.

We concur: Epstein, J.
 Baron, J.

DIVISION FOUR (Continued)

B110741 Teitelbaum (Not for Publication)

v.

Workers' Compensation Appeals Board of the State of California et al.

The Board's ruling on petitioner's petition for reconsideration is annulled, and the matter is remanded for further proceedings consistent with this opinion.

Baron, J.

We concur: Vogel (C.S.), P.J.
Hastings, J.

B102688 C.A.L. Financial, Inc., et al. (Not for Publication)

V.

Graezer et al.

The judgment on the cross-complaint is reversed and the trial court is directed to proceed in accord with the views expressed herein. The judgment on the complaint is affirmed. Costs to appellants.

Vogel (C.S.), P.J.

We concur: Hastings, J.
 Baron, J.

B097396 Mellone (Not for Publication)

V.

Mackenzie

Let a peremptory writ of mandate issue compelling respondent court to set aside the judgment as being void, to enter a new and different order granting that motion, and to thereafter proceed in accord with the views expressed herein. MacKenzie to recover costs in this proceeding.

Vogel (C.S.), P.J.

We concur: Hastings, J.
Baron, J.

DIVISION FOUR (Continued)

B107943 Rubin (Not for Publication)
v.
Nadalman et al.
Johnson

The matter is reversed and remanded to the trial court for further proceedings consistent with the views expressed herein. Costs on appeal are awarded to appellant.

Vogel (C.S.), P.J.

We concur: Epstein, J.
Hastings, J.

B105763	Inglewood Police Association, Inc. v. City of Inglewood et al.	(Not for Publication)
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The judgment is reversed. The trial court is directed to enter judgment for defendants. Costs on appeal are awarded to defendants.

Vogel (C.S.), P.J.

We concur: Epstein, J.
Hastings, J.

B109803 Sheaffer et al.
v.
Smith

Filed order modifying opinion. Petition for rehearing is denied. (Change in judgment.)

DIVISION SIX

B107497 Lankin (Not for Publication)

V. California Motorcycle Couriers

The order of the trial court is affirmed, except insofar as that order failed to add Douglas McDonald as a judgment debtor. The matter is remanded with directions to amend the judgment to add Douglas McDonald as a judgment debtor. Each party will bear their own costs.

Coffee, J.

We concur: Stone, P.J.
Yegan, J.

B109933 People (Not for Publication)

v.
Brown

The judgment is affirmed.

Coffee, J.

We concur: Stone, P.J.
Gilbert, J.

B110842 People (Not for Publication)

V.
Clark

The judgment is affirmed.

Coffee, J.

We concur: Stone, P.J.
 Gilbert, J.

October 23, 1997-Continued

DIVISION SIX (Continued)

B110962 People (Certified for Publication)
v.
Humphrey

The judgment is reversed and the matter is remanded for resentencing only. If the trial court again attempts to exercise "Romero" discretion, it must set forth its reason or reasons in the minute order. In all other respects, the judgment is affirmed.

Yegan, J.

We concur: Gilbert, Acting P.J.
 Coffee, J.

DIVISION SEVEN

B101238 Young (Not for Publication)
v.
Peterson

The judgment is affirmed. Respondent shall recover his costs on appeal.

Lillie, P.J.

We concur: Woods, J.
Neal, J.

B095440 West (Not for Publication)
v.
Lloyd's

The judgment is reversed. Appellants shall recover their costs on appeal.

Lillie, P.J.

We concur: Johnson, J.
 Woods, J.

DIVISION SEVEN (Continued)

B088854 Hampton (Not for Publication)
B099014 v.
Compton Unified School District

The Judgment After Remittitur is reversed and upon remand, the trial court is directed to deny plaintiffs' motion for peremptory writ of mandate and enter judgment for District. District's appeal from the order awarding plaintiffs attorney's fees of \$46,590 is dismissed as moot. The parties are to bear their own costs on appeal.

Lillie, P.J.

We concur: Johnson, J.
Neal, J.